Volume I
Pages 1 to 121
Exhibits (1)

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

CIRIACO PUCILLO,
Plaintiff(s),

v.

Civil Action
No. 03-CV-12359MLW

METSO PAPER, INC. AND
VALMET CONVERTING, INC.,
Defendant(s).

DEPOSITION OF JOHN M. ORLOWSKI, a witness called by counsel for the Defendant Valmet Paper Converting, Inc., taken pursuant to the applicable rules, before Diane L. McElwee, Registered Merit Reporter and Notary Public in and for the Commonwealth of Massachusetts, at the Law Offices of Mark Petersen, 490 Shrewsbury Street, Worcester, Massachusetts, on Friday, January 27, 2006, commencing at 9:50 AM.

A Yes.

Q You took one day?

A One day.

Q Because you met the prerequisites by your license?

A Correct.

Q You are also a Board Certified Forensic Examiner. Tell me what that is.

A That's someone that has demonstrated that they have achieved a high level of forensic examination capabilities based on their skill, knowledge, experience, education, and training.

Q Now are there subject matters within these board certified certifications?

A The Certified Safety Professional does have various disciplines. They have one that is heavily weighted towards engineering, which is the examination that I took. There are others which may be weighted more towards management. Others may be weighted more towards construction. There is several disciplines in the certification.

Q How about the Forensic Examiner?

A That's just a general subject matter.

Q Let's briefly go through your employment

background starting with the first job chronologically where you worked for Gifford, G I F F O R D, Wood Company in Hudson, New York.

A Correct.

Q What I would like to try to do is to get an understanding of what it is you did in each of these jobs.

So from 1963 to 1972 you worked for Gifford Wood, correct?

A Correct.

Q It says that you were initially hired in a design draftsman capacity.

A Correct.

Q Then eventually became chief product engineer.

A Correct.

Q How long were you an engineer for Gifford Wood?

A I don't recall when I was designated chief product engineer specifically, but in essence what I did was designed machinery.

Q For the entire six-year period or just as the engineer?

A I don't recall when they designated me an

engineer. After I began designing machinery or before, I probably designed machinery or at least some machine components prior to being designated an engineer. Again there is an overlap between drafting a machine part and designing a machine part.

Q What did Gifford Wood Company do?

A Gifford Wood Company had two principal product lines. The first product line was essentially materials handling equipment, conveyers, elevators, industrial elevators, not passenger elevators.

They had a secondary product line, which is the one that I was principally involved in, called the chemical processing equipment line that involved mixing equipment, blenders, high speed homogenizers, in-line mixers, et cetera. I was in charge of the chemical processing equipment line, which involved customer contact, estimating, generating brochures, and then if and when the order came in based on a proposal I submitted, I would then be in charge of designing the machine to meet the customer's requirements. I was also in charge of quality control and approving the testing of the machine prior to being shipped.

Q So am I correct in understanding Gifford Wood was an original equipment manufacturer, an O.E.M.?

A That is correct.

Q For certain product lines, one of which was materials handling?

A Correct.

Q One of which was chemical processing?

A Correct.

Q And customers would place an order for a particular machine and then Gifford Wood would make the machine to order? Is that how it would work, or were they made in advance, and the customer would purchase them off the shelf?

A No, they wouldn't purchase them off the shelf. There were certain standard components within the product line, and there was an occasion when a customer would purchase that machine off the shelf so to speak.

Q When you talk about components, are you talking about a conveyor system?

A I am referring now to the chemical processing equipment now. There were small, for example, standard mixers that somebody could order

directly from a catalogue. Most of my involvement was in maintaining and developing that standard product line but specifically to design the custom machines based on customers' requirements.

Q And did Gifford Wood also sell spare parts and component parts to its customers?

A Yes, they did.

Q Did Gifford Wood also service these machines?

A Yes, they did.

Q Are you involved at all with servicing the equipment in the field at a customer's location?

A I might have been involved or I was involved to a limited degree in meeting with a customer if there was a machine that wasn't functioning properly and making an evaluation of what the problem or potential problems of the machine might have been. I didn't actually service the machine.

Q When you say you may have been involved in meeting with the customers, would that have been at the customer's facility or at your facility?

A At the customer's facility or both.

Q But you were not a service technician or field technician that would do the work?

A I wouldn't do the work, no.

Q Did Gifford Wood do the work, or did only the customers do the work?

A Gifford Wood had service technicians, yes.

Q Then you joined W.B. McGuire, Inc.?

A Correct.

Q Tell me what W.B. McGuire, Inc., did.

A W.B. McGuire, Inc., designed truck dock leveler, which is a machine that is installed in a truck dock that automatically extends and elevates to form a bridge between the truck bed and the dock.

There were two types of dock levelers. One was a mechanical spring-operated dock leveler, and another one was a hydraulically-operated dock leveler.

Q Did you work with both?

A I worked with both, yes.

Q You were there for six months?

A I was there for six months.

Q Again was that a situation where customers would contact your company, W.B. McGuire, and ask for a dock leveler?

A Correct.

Q And you would design it to order?

A Yes, yes, in effect.

My task at W.B. McGuire when I became employed was essentially research and development. In other words, they didn't have a hydraulic dock leveler. My task was to develop one and design one. Once that was designed, then there is really very little to do with a hydraulic dock leveler. One could be made shorter or wider, but the modifications are relatively elementary.

Q Essentially they have to be fitted to the dock?

A They have to be fitted to the dock.

Q But it's the same basic design?

A It's the same basic design.

Q Now did W.B. McGuire also service dock levelers?

A Yes.

Q And did they sell spare parts for dock levelers?

A Yes.

Q After six months at W.B. McGuire you went to V & O Press Company.

A Correct.

Q You were there for four years; is that

correct?

A Four or five years, yes.

Q What did you do with V & O?

A I performed mechanical and electromechanical design for essentially mechanical punch presses. I was involved in the design, research, and development of punch presses, new punch presses that had not been part of the general equipment line, for example, a high-speed punch press. I designed a 150-, 200-ton straight side mechanical punch press. I was involved in a 500-ton hydraulic -- what's called a swedging machine for an arsenal that pushed a tungsten carbide bullet through a gun barrel to remove scale and work hardening surfaces. I also was involved in making modifications to existing machines to satisfy customers' requirements.

Q When you say "making modifications," you were rebuilding their existing equipment?

A No, rebuilding our standard line. In other words, we had certain standard presses, and somebody would order a press, but they maybe wanted it a little higher or wider, or they wanted to operate it at different speeds. Those are the modifications that are typically made to a mechanical punch press.

Q Again V & O made these presses after a customer ordered them, correct? They were made to order?

A They were made to order.

Q As a project engineer does that mean you received an assignment; a company wanted a particular press, and then you were the lead engineer to develop that press and to sell that press?

A Correct.

Q Did you have other engineers who worked with you?

A Yes.

Q Were there areas of the press that you had particular responsibility for as a project engineer, or were you more administratively in charge of the product as a project engineer?

A I actually did the design work on the press. I may have had others working with me. I may have had draftsmen generating production drawings from engineer layouts that I might have made, but I was in charge of the entire operation, including the ordering of the motors and the electrical schematics as well.

Q You would have ordered the motors and

schematics. What does that mean? You would have ordered them?

A There are many purchase components on a press. There are motor, electrical components. We would order those from a manufacturer in accordance with certain specifications.

Q There would be a control system on the press, correct?

A There would be a control system on the press.

Q Probably before the days of the program Logic?

A Yes.

Q Was the control design part of your work?

A In some cases it was. Many of these companies that are listed on my C.V. are basically small companies, and in a small company somebody in my capacity gets to wear many hats. The control design to some degree was my responsibility as well.

Q In the 1970s would the control have been carried out through relays?

A Would be relays, yes.

Q Did you design the relay system?

A I would design the electrical schematic. I

don't recall my specific involvement in ordering the relays. There were electrical engineers. At least there was one electrical engineer that may have been involved in that to some degree, but I did have some involvement with the relay design, yes.

Q When you say you designed the electrical schematics, what does that mean?

A I designed the drawings to show the electricians how to wire the machine.

Q So would you actually put pencil to paper and draw the design schematic?

A Yes, I would. Those were the days before the CAD systems came into effect.

Q The CAD systems outdated itself, hasn't it?

A Pretty much, yes.

Q After V & O Press you went to the Lenox Machine Company?

A Correct.

Q You were there for just less than a year, correct?

A That is correct.

Q What did you do at the Lenox Machine Company?

A I designed machinery, web handling

machinery, such as slitters and winders, also designed some conveyor systems for handling paper rolls. It's a pretty specialized business focused pretty much on paper, paper handling. It was the dry end of the paper machine.

Q When you say you designed, for example, winders for the paper handling systems --

A Correct.

Q -- does that mean you designed the mechanical as well as the electrical?

A At Lenox Machine Company I believe my focus was pretty much on the mechanical design.

Q The mechanical design for a winder -- for example, you would have a customer, Georgia Pacific, that asked for a winder, and you would take your basic design at Lenox Machine and adapt it to their size paper; is that correct?

A If there was a basic design or if there was a previous design that was similar, yes, we would try to use as much as we could of a previous or existing design, certainly.

Q In 1977 you became chief engineer at Nichols Machine Tool Group.

A Correct.

A Yes, I do.

Q The switch was not properly set?

A Correct.

Q Figure 7, with the arrow pointing to that switch, is that switch the switch that controls the functions that caused Mr. Pucillo's accident?

A I don't believe so, no.

Q So I am not asking you is this the drive board involved, but is this the switch on the drive board?

A No.

Q Am I correct that the switch involved in Mr. Pucillo's accident made an election between receiving speed information from a tachometer or from an Armature voltage feedback device?

A Yes. The switch that was involved in Mr. Pucillo's accident was involved in the speed loop, such that if the torque was reduced, had the switch been properly set, it would have prevented an overspeed of the motors.

Q To use your words, the switch is involved in the speed loop, is that what you said?

A Speed limiting device.

Q Speed limiting device. Is that arrow

Q Do you have any independent knowledge of the function of the switch?

A Other than my investigation in this case?

Q Other than what you have learned from looking at documents in this case.

A I don't, no.

Q Is it fair to say that your knowledge of the function of this switch is limited to the deposition testimony and written reports created by others in connection with this case?

A It's based on reports by the representatives of the manufacturers of the machine, reports in this case, deposition testimony in this case. I have conducted no independent tests, if that is the question.

Q Really I am trying to find out whether you know how this switch works or whether someone told you. It sounds like someone told you.

A I know now the switch works by reviewing the documents in this case.

Q You know how it works because Mr. Purcell --

A Purcell, yes.

Q -- went to the facility, investigated what he believed to be the cause and wrote a report, and

you have accepted that as being correct?

A I have accepted that as being correct. He is a representative of the manufacturer, certainly.

Q You read a report from TM Seger Claims Service, and it discussed the switch, correct?

A Yes.

Q And you have accepted that as being correct?

A And I met with people from Proma.

Q TMS as being correct?

A Yes.

Q The person from TMS, what was his or her qualifications?

A I believe they were simply reporting from what Purcell had found.

Q They have no independent knowledge as to your knowledge?

A Correct.

Q You met with people from Proma?

A Yes.

Q Nancy Johnson was one?

A Nancy Johnson.

Q Did she tell you how the switch worked?

A Steve Bagley reported to me what was found.

Q Steve Bagley was the safety officer for

Proma Technologies?

A Correct.

Q Did he show you the switch?

A I was shown the mother board.

Q Did he explain to you how the switch works in the machine?

A No, he did not.

Q So what did you learn from Mr. Bagley with regard to how the switch operates?

A I don't think I discussed specifically with Mr. Bagley the operation of the switch.

Q Other than Mr. Purcell's report then, what is your knowledge of how the switch operates?

A By reviewing the other documents. The reference to Mr. Purcell's findings is in several deposition transcripts. Mr. Purcell put the switch in the correct position according to him. He started the switch in the correct position, and the problem was corrected. That's evidence to me that the switch was in the incorrect position.

Q My question to you is the operation and function of the switch. My question is how you know how this switch functions.

A It's been described by Purcell. It's been

if there is any possibility of it coming loose, coming unlatched, it should be secured, yes.

Q So I said that would no longer be a switch, and you said, right, that would be a circuit?

A Right.

Q So now we have changed the switch to a circuit. I am asking you the basis for your opinion that it's improper to use a switch.

A If the supplier cannot ensure that the switch remains in its proper position, then it shouldn't be a switch. The only reason it's a switch is to save money.

Q I understand your testimony. Now I want to know the basis for it.

A The basis for it?

Q Yes.

A My years of experience in designing machinery and components.

Q Are there standards in the electrical industry, electronics industry that prohibit the use of a switch?

A I don't think you would find a standard that would be that specific, no.

Q Are there standards that say when a switch

A Yes.

Q You told me that Atlas U.S. sold replacement parts for it.

A Correct.

Q So who is the machine manufacturer?

A Well, Atlas U.K. is the machine manufacturer, but Atlas/Valmet supplied the boards.

Q So Atlas/Valmet or Atlas U.S. is not the machine manufacturer?

A Not the machine manufacturer, but they are the supplier of the boards which should have been supplied correctly.

Q What standard, what industry standard or governmental regulation are you relying upon for your opinion that the seller of a component part has an obligation to preset those parts before they are sold and delivered?

A I am relying on my experience in the industry.

Q No standard?

A There may be a standard, but that's such an obvious apparent truth that I wouldn't expect something like that to even be in a standard.

Q So you are not aware of a standard?